

REGULATION 5

OPERATION OF GAMING ESTABLISHMENTS

PROPOSED AMENDMENTS TO REGULATION 5

PURPOSE: In accordance with NRS 463.145, NRS 463.150, and S.B. 46 passed during the 2019 Legislative Session, to amend Regulation 5.225(4) to change *licensed* cash access and wagering instrument service provider to *registered* cash access and wagering instrument service provider; to amend Regulation 5.240 to delete the definitions of “assumes responsibility,” “geolocation service provider,” “patron identification service provider,” and “payment processing service provider;” to amend the definitions of “information technology service provider” and “service provider;” to establish that the Board shall make a list available of all registered service providers; to no longer license service providers; to exempt certain manufacturers from service provider registration requirements; to establish a process to register service providers, including certain owners and principals of the service provider; to establish the length of time service provider registrations are valid; to establish the service provider registration and investigation fee; to establish a process for objecting to and cancelling the registration of a service provider; to establish a process for requiring an application for finding of suitability of any person owning, operating, or having a significant involvement with a service provider; to set forth what occurs with currently licensed service providers; to remove all provisions applicable to interactive gaming service providers; and to take such additional action as may be necessary and proper to effectuate these stated purposes.

(As Adopted: 10/24/19)

New
~~Deleted~~

5.225 Wagering accounts.

1. [No change]
2. [No change]
3. [No change]

4. ~~[Operation]~~ *A third party may operate* and ~~[maintenance of]~~ *maintain* wagering accounts ~~[by third parties.]~~ *on behalf of a licensee if the following conditions are met:*

(a) A licensee may use a ~~[licensed]~~ *registered* cash access and wagering instrument service provider or a licensed manufacturer to operate and maintain wagering accounts on behalf of the licensee provided such wagering accounts are within the State of Nevada.

(b) A ~~[licensed]~~ *registered* cash access and wagering instrument service provider or a licensed manufacturer that acts on behalf of a licensee to operate and maintain wagering accounts shall be subject to the provisions of this section applicable to such services to the same extent as the licensee.

(c) A licensee continues to have an obligation to ensure, and remains responsible for compliance with, this regulation, the Gaming Control Act and all other regulations of the Commission regardless of its use of a ~~[licensed]~~ *registered* cash access and wagering instrument service provider or a licensed manufacturer to operate and maintain wagering accounts on its behalf.

(d) A ~~[licensed]~~ *registered* cash access and wagering instrument service provider or a licensed manufacturer acting on behalf of a licensee, and with the consent of the licensee and the patron, may use a patron's personal identification information to administer all other wagering accounts created for that patron on behalf of additional licensees.

5. [No change]

6. [No change]

7. [No change]

8. [No change]

9. [No change]

10. [No change]

11. [No change]
12. [No change]
13. [No change]
14. [No change]
15. [No change]
16. [No change]
17. [No change]
18. [No change]
19. [No change]
20. [No change]
21. [No change]

5.240 Service Providers.

1. Findings. The Commission hereby finds that service providers are secure and reliable, that service providers do not pose a threat to the integrity of gaming, and that service providers are consistent with the public policy of this State ~~[pursuant]~~ as set forth in to NRS 463.0129.

2. Definitions.

(a) “Chair” means the Chair of the Nevada Gaming Control Board or the Chair’s designee.

~~(b) “Assumes responsibility” means to acquire control over, or ownership of, a person, or to acquire the authority, by contract or otherwise, to direct a person to make corrections, modifications, or changes to any aspect of the service or services provided by the person, including corrections, modifications or changes to software or hardware.~~
~~(c) “Geolocation service provider” means a person who identifies, or provides information for the identification of, the geographic location of individuals to a licensed operator of interactive gaming, licensed~~

~~interactive gaming service provider, or licensed manufacturer of interactive gaming systems for purposes of interactive gaming. This definition does not include:~~

~~—(i) A person who otherwise generally provides such information for purposes other than interactive gaming;~~

~~—(ii) A licensed operator of interactive gaming who obtains such information for its own use;~~

~~—(iii) A licensed interactive gaming service provider, or licensed manufacturer of interactive gaming systems who provides such information; or~~

~~—(iv) A person who provides such information to a licensed operator of interactive gaming, licensed interactive gaming service provider, or licensed manufacturer of interactive gaming systems so long as the licensed operator of interactive gaming, licensed interactive gaming service provider, or licensed manufacturer of interactive gaming systems assumes responsibility for the information provided.~~

~~—(d)] “Information technology service provider” means a person who, on behalf of a [nother] licensee, provides management, support, security, or disaster recovery services for [Board regulated hardware or software] games, gaming devices, or associated equipment.~~

~~{(e) “Patron identification service provider” means a person who verifies, or provides information for the verification of, the identification of individuals to a licensed operator of interactive gaming, licensed interactive gaming service provider, or licensed manufacturer of interactive gaming systems for purposes of interactive gaming. This definition does not include:~~

~~—(i) A person who otherwise generally provides such information for purposes other than interactive gaming;~~

~~—(ii) A licensed operator of interactive gaming who obtains such information for its own use;~~

~~—(iii) A licensed interactive gaming service provider, or licensed manufacturer of interactive gaming systems who provides such information; or~~

~~—(iv) A person who provides such information to a licensed operator of interactive gaming, licensed interactive gaming service provider, or licensed manufacturer of interactive gaming systems so long as the licensed operator of interactive gaming, licensed interactive gaming~~

~~service provider, or licensed manufacturer of interactive gaming systems assumes responsibility for the information provided.~~

~~—(f) “Payment processing service provider” means a person who directly facilitates the depositing of funds into or withdrawing of funds from interactive gaming accounts for a licensed operator of interactive gaming or licensed interactive gaming service provider. This definition does not include:~~

~~—(i) A licensed operator of interactive gaming who provides such services for its patrons;~~

~~—(ii) A licensed interactive gaming service provider who provides such services; or~~

~~—(iii) A person who provides such services to a licensed operator of interactive gaming or licensed interactive gaming service provider, so long as the licensed operator of interactive gaming or licensed interactive gaming service provider assumes responsibility for the service provided.~~

~~—(g)] c “Service provider” means a person who:~~

~~{(i) Acts on behalf of another licensed person who conducts nonrestricted gaming operations, and who assists, manages, administers or controls wagers or games, or maintains or operates the software or hardware of games on behalf of such a licensed person, and is authorized to share in the revenue from games without being licensed to conduct gaming at an establishment;~~

~~—(ii) Is an interactive gaming service provider as defined pursuant to Regulation 5A.020;~~

~~—(iii)] (1) Is a cash access and wagering instrument service provider *as defined in NRS 463.01395*; or~~

~~[(iv)] (2) Is an information technology service provider];~~

~~—(v) Acts on behalf of another licensed person who conducts nonrestricted gaming operations where the services provided include those functions that fall within the definition of “gaming employee” pursuant to NRS 463.0157;~~

~~—(vi) Is a geolocation service provider;~~

~~—(vii) Is a patron identification service provider; or~~

~~—(viii) Is a payment processing service provider.~~

~~→A service provider granted a license by the Commission is a licensee].~~

~~3. [Service provider investigation classifications. The level of investigation conducted by the Board of a service provider applicant is classified based on the significance of the activities to be provided on behalf of a licensee and regulatory risk of the service provider. The investigation classifications are as follows:~~

- ~~—(a) The following service providers are subject to a class 1 investigation:~~
 - ~~—(i) Any interactive gaming service provider;~~
 - ~~—(ii) Any service provider who receives payments based on earnings or profits from any gambling game; or~~
 - ~~—(iii) Any other applicant for a service provider license who, upon a determination of the Chair, should be subject to a class 1 investigation. Such determination shall be based on the policy set forth in NRS 463.0129 and this subsection.~~
- ~~—(b) Any service provider other than those identified in subsection 3(a) of this section is subject to a class 2 investigation.~~

~~—4.] A licensee may only use a service provider that is [licensed] registered as such [by] with the [Commission] Board or a person holding a manufacturer’s license issued by the Commission pursuant to NRS 463.650 to the extent the manufacturer is supporting such manufacturer’s gaming products. The Board shall make a list available of all registered service providers.~~

~~[5.]~~ 4. A licensee continues to have an obligation to ensure, and remains responsible for, compliance with this regulation, the Nevada Gaming Control Act and all other regulations of the Commission regardless of its use of a service provider.

~~[6.]~~ 5. Except as otherwise provided in this subsection, [A] a person may act as a service provider only if that person ~~[holds a license authorizing the person to act as a service provider and subject to any further conditions, limitations and restrictions imposed by the~~ [Commission] is registered with the Board pursuant to this section. Once ~~[licensed]~~ registered, a service provider may act on behalf of one or more gaming licensees. Any person holding a manufacturer’s license issued by the Commission pursuant to NRS 463.650 may perform the services of a service provider without registering

pursuant to this section only if such services are limited to supporting such manufacturer's gaming products.

~~[7.] 6. [Licensing.]~~

~~[(a)] Service providers, including each direct or beneficial owner of 10% or more of the service provider and any person having significant control over the operations of the service provider, as determined by the Chair, including without limitation, officers, directors, or other principals, must register with the Board. A registration issued by the Board pursuant to this section expires five years after the Chair sends notice to the service provider that the service provider is registered with the Board, and every five years thereafter if a completed application for renewal of registration is received by the Board prior to the expiration of the registration. A completed application for renewal of registration must be submitted to the Board not less than 60 days prior to the expiration of the registration.~~

7. A service provider shall not provide services as a service provider until the Chair notifies the service provider in writing that the service provider is registered with the Board.

8. Applications for registration, or renewal of registration, as a service provider ~~[license that is subject to a class 1 investigation shall be made, processed, and determined in the same manner as applications for nonrestricted gaming licenses, using such forms as the Chair may require or approve.]~~ must include:

(a) Completed forms as furnished by the Board, information, and documents as required by the Chair;

(b) A written statement, signed under penalty of perjury on a form furnished or approved by the Board, affirming that the service provider, including each person otherwise required to be registered pursuant to subsection 6:

(1) Submits to the jurisdiction of the State of Nevada, the Board, and the Commission;

(2) Agrees to be governed and bound by the laws of the State of Nevada and the regulations of the Commission;

(3) Provided complete and accurate information to the Board; and

(4) Will cooperate with all requests, inquiries, and investigations of the Board or Commission;

(c) If a natural person, one complete set of fingerprints from the service provider, and from each person otherwise required to be registered pursuant to subsection 6;

~~[(b) Applications for a service provider license that is subject to a class 2 investigation shall be made, processed, and determined using such forms as the Chair may require or approve and must be accompanied and supplemented by such documents and information as may be specified or required. Such service providers shall be subject to an investigation and review by the Board as deemed necessary by the Chair based on the regulatory risk and the intended activities of the service provider but that is at a level less than a class 1 investigation.]~~

~~[(e)]~~ (d) A registration and investigation fee, as determined by the Chair, not to exceed \$10,000; and

(e) Any additional information requested by the Chair.

9. [Before receiving a license, a service provider must meet the qualifications for licensing] A service provider must not be registered with the Board unless the Chair is satisfied, based on the information provided pursuant to this subsection, that the service provider meets the standards established pursuant to NRS 463.170.

~~[(d) Nothing in this Regulation shall be construed to limit or prevent the Board from conducting such supplementary or expanded investigations of any applicant for a service provider license as determined necessary by the Chair or the Chair's designee. The Board may require an applicant for a service provider license to pay any supplementary investigative fees and costs in accordance with Regulation 4.070.]~~

~~[8]~~ 10. [An applicant for a service provider's license] A service provider shall have the burden of showing that its operations are secure and reliable.

~~[9 Applications for a service provider license shall be subject to the application and investigative fees established pursuant to Regulation 4.070.]~~

11. A person who has a pending application for registration as a service provider shall report any changes to the information required pursuant to subsection 8 within 30 days of such change.

12. A person registered as a service provider shall report any changes in who owns 10% or more of the direct or beneficial ownership of the service provider and any changes in the service provider's principals within 30 days of such changes. The Chair may, in the Chair's sole and absolute discretion, require additional information or a new registration as a service provider if there is such a change in ownership.

13. At any time prior to notifying the service provider in writing that the service provider is registered with the Board or that the service provider's registration with the Board is renewed, the Chair may object to the registration of a service provider for any cause deemed reasonable by the Chair and such service provider shall not be registered.

14. At any time after registration, the Chair may cancel the registration of a service provider if the service provider, including any of those persons required to register pursuant to subsection 6, is convicted of a felony. The effective date of cancellation of a registration as a service provider issued pursuant to this section shall be 5 days after the Board deposits notice of cancellation to the service provider's last known address with the United States Postal Service with postage

thereon prepaid. The Board shall notify licensees of such cancellation and the effective date thereof.

15. The objection to or cancellation of the registration of a service provider shall be considered an administrative decision subject to review upon appeal by the service provider pursuant to the procedures established by Regulations 4.185, 4.190 and 4.195. A service provider is prohibited from applying for registration as a service provider to the Board for 1 year from the date of notice of the objection to or cancellation of the registration of a service provider, or the final decision on any appeal of such objection or cancellation, whichever occurs later.

~~{10.} 16.~~ The premises on which a service provider conducts its operations is subject to the power and authority of the Board and Commission pursuant to NRS 463.140. ~~{It shall be an unsuitable method of operation for a service provider holding a license issued by the Commission to deny any Board or Commission member or agent, upon proper and lawful demand, access to, inspection or disclosure of any portion or aspect of their operations.}~~

~~{11.} 17.~~ A service provider shall be liable to the licensee on whose behalf the service provider acts for the service provider's proportionate share of the fees and taxes paid by the licensee.

18. The Commission may, upon a recommendation from the Board, require any person owning, operating, or having a significant involvement with a service provider to file an application for a finding of suitability at any time by providing written notice to the person. A person required to file an application for a finding of suitability pursuant to this subsection shall apply within 30 days of the person's receipt of written notice. Failure to timely submit an application for a finding of suitability shall constitute grounds for a finding of unsuitability.

19. A person required to file an application for a finding of suitability pursuant subsection 18 does not have any right to the granting of the application. Any finding of suitability hereunder is a revocable privilege, and no holder acquires any vested right therein or thereunder. Judicial review is not available for decisions of the Board and Commission made or entered under this section.

20. If the Commission finds any person owning, operating, or having a significant involvement with a service provider to be unsuitable under this section, the registered service provider and gaming licensees shall, upon written notification from the Board, terminate any existing relationship, direct or indirect, with such person. Failure to terminate such relationship may be deemed to be an unsuitable method of operation.

21. No determination of suitability of a person owning, operating, or having a significant involvement with a service provider shall preclude a later determination by the Commission of unsuitability.

22. All service provider licenses issued by the Commission prior to July 1, 2019 shall remain valid until such licenses expire on December 31, 2019. Any service provider, as defined pursuant to this section, holding a service provider license issued by the Commission as of December 31, 2019, shall be deemed registered as a service provider with the Board as follows:

(a) Until March 2, 2020 if the service provider license was initially issued prior to January 1, 2015; or

(b) For five years following the date of the initial issuance of the service provider license if the service provider license was initially issued on or after January 1, 2015.

~~[12. Employees of Service Provider. Any employee of a service provider who is connected directly with the operations of the service~~

~~provider or who, on behalf of a licensee or on behalf of the service provider, performs the duties of a gaming employee as provided pursuant to NRS 463.0157 is a gaming employee subject to the provisions of NRS 463.335 and 463.337 and Regulations 5.100 through 5.109.]~~

~~—[13. License fees.~~

~~—(a) Before the Commission issues an initial license or renews a license for a service provider, the service provider shall pay a license fee of \$1,000.~~

~~—(b) All service provider licenses shall be issued for the calendar year beginning on January 1 and expiring on December 31. If the operation as a service provider is continuing, the fee prescribed by subsection (a) shall be due on or before December 31 of the ensuing calendar year. Regardless of the date of application or issuance of the license, the fee charged and collected under this section is the full annual fee.~~

~~—14. Any provisions of Regulation 5A specifically applicable to interactive gaming service providers shall control over this regulation.~~

~~—15. Grounds for Disciplinary Action.~~

~~—(a) Failure to comply with the provisions of this regulation shall be an unsuitable method of operation and grounds for disciplinary action.~~

~~—(b) The Commission may limit, condition, suspend, revoke or fine any license, registration, finding of suitability or approval given or granted under this regulation on the same grounds as it may take such action with respect to any other license, registration, finding of suitability or approval.]~~